

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GILBERT G. LUNDSTROM,

Defendant.

4:14CR3136

UNITED STATES OF AMERICA,

Plaintiff.

vs.

JAMES A LAPHEN,

Defendant.

4:14CR3133

JOINT STIPULATED ORDER REGARDING APPLICATION OF GARNISHED FUNDS

1. On March 25, 2016, the Court entered a criminal Judgment against defendant Gilbert Lundstrom, ordering him to pay a fine of \$1,200,000, due and payable on the date of judgment (Filing #230, Case No. 4:14CR3136). On the same day, the Court entered a criminal Judgment against defendant James Laphen, ordering him to pay a fine of \$200,000, due and payable on the date of judgment (Filing # 61, Case No. 4:14CR3133).
2. On May 4, 2016, the Court entered a Restitution Order jointly in each of defendants' cases (Filing #64, Case No. 4:14CR13133), requiring defendants to pay restitution jointly and severally in the amount of \$2,622,696, and additional amount of \$500,000 to be paid jointly and severally with co-defendant Langford. The Court further ordered Lundstrom and Laphen to separately pay \$1 million immediately and then monthly payments of \$2,500. Payments paid

by defendants were to be applied to the restitution balance before any sums could be credited to the fine balance.

3. On March 4, 2019, the Court entered an Order jointly in each of defendants' cases slightly increasing the amount for which defendants were mutually severally liable to \$2,645,055. All other provisions of the Order regarding restitution referenced above were unchanged. (Filing #286, Case No. 4:14CR3136).
4. According to the FDIC as receiver for TierOne bank, on October 29, 2020, the FDIC paid Lundstrom \$481,697.83, and continues to owe Lundstrom \$2,748,561.55 plus post insolvency interest that has accrued in an amount over \$198,000, the sum of which is at least approximately \$2,946,561.50.
5. The FDIC owes Laphen \$227,390.01 plus accrued interest of at least \$13,850.49, the sum of which is at least approximately \$241,240.50.
6. The Court has issued orders amending defendants' restitution orders such that restitution is now due and payable immediately pursuant to 18 U.S.C. § 3664(k). (Filing No. 294, case no. 14CR3136; Filing No. 82, case no. 14CR3133).
7. As of July 26, 2021, according to the Clerk of the Court's financial records, Lundstrom owes \$2,341,721.43, which includes a fine of \$1,200,000.00.
8. As of July 26, 2021, according to the Clerk of the Court's financial records, Laphen owes \$1,341,721.43, which includes a fine of \$200,000.00.
9. The United States is preparing to garnish funds owed by the FDIC to defendants, but the parties want to assure necessary and proper application of the garnished funds to the balances owed by each defendant.

10. The parties have agreed that funds owed by the FDIC to defendant Lundstrom, the amount of which to be garnished is \$2,324,605.90, are to be applied as follows after garnishment:

- a. \$1,124,605.90 to be applied to the joint and several restitution balance (which along with the \$17,115.50 from defendant Laphen, will fully satisfy the restitution owed jointly and severally between defendants); and,
- b. \$1,200,000.00 to be applied to the fine owed by Lundstrom to fully satisfy the fine.

11. The parties have agreed that funds owed by the FDIC to defendant Laphen, the amount of which to be garnished is \$217,115.50, are to be applied as follows after garnishment:

- a. \$17,115.50 to be applied to the joint and several restitution; and,
- b. \$200,000 to be applied to the fine owed by Laphen to fully satisfy the fine.

12. Following the completion of the garnishment, which will fully satisfy all amounts owed by each defendant pursuant to the Court's Judgment and Restitution Order, any excess funds held by the FDIC, as Receiver for TierOne Bank, that remain due and owing to defendant Lundstrom and to defendant Laphen, may be paid by the FDIC to the respective defendant.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:

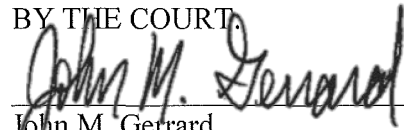
A. The District Court Clerk shall apply funds garnished from the FDIC as receiver for TierOne Bank to defendants' joint and several restitution balances to fully satisfy the joint and several restitution owed by defendants as follows:

- of the garnished funds owed to defendant Laphen, \$17,115.50 shall be applied to the joint and several restitution balance;
- of the garnished funds owed to defendant Lundstrom, \$1,124,605.90 shall be applied to the joint and several restitution balance;

- of the garnished funds owed to defendant Laphen, \$200,000 shall be applied to his \$200,000 fine balance to fully satisfy his fine; and,
- of the garnished funds owed to defendant Lundstrom, \$1,200,000 shall be applied to his \$1,200,000 fine balance to fully satisfy his fine.

SO ORDERED this 26th day of July, 2021.

BY THE COURT.



John M. Gerrard
United States District Court Judge

Agreed as to form by the parties.

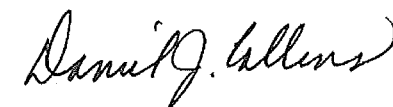
Dated: July 26, 2021

UNITED STATES OF AMERICA

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